

REMARKS

In response to the final Office Action dated March 14, 2008, for which a two month extension of time fee and petition filed herewith, Applicant files herewith an RCE form SB/30 under 37 CFR 114 accompanied by fee under 37 CFR 17(e) for application no. 10/613,392, filed July 3, 2003, including the following preliminary amendment and response. Applicant has amended claims 1 and 43 to clarify that the promoter is not the offering entity, does not provide financial cards for purchase of products or services provided by said promoter, and does not co-brand a financial card with an offering entity, which is supported by the present specification. Thus, claims 1, 2, 4-6, 14, 15, 20 and 43-50 are pending in this application. The present claims are fully supported by the present application and do not include new matter, e.g., as fully supported at pages 6-7 and generally at pages 2-13.

The Examiner has withdrawn the rejections and objections to the specification and claims under 35 USC sections 101 and 112.

In the only remaining rejection, as presented on pages 3-7 of the final Office Action, the Examiner rejects all of pending claims 1, 2, 4-6, 14, 15, 20 and 43-50 as unpatentable under 35 USC section 103(a) over Manchester (US 2003/0204470) citing Manchester at: page 1, paragraph 0009; page 2, par. 0017; page 1, par. 0012 to page 2, par. 0024; in view of Postrel (US 2005/0021400), page 8, par. 0081; page 3, par. 0032 and page 6, par. 0066; page 2, par. 021-0022; 0029.

In the final office action at the top of page 7, the Examiner states that:

“Manchester discloses a bank issuing a dual purpose credit card (i.e. the bank is the offering entity) and providing promotional material along with the credit card statements pertaining to the merchant (i.e., promoter) who is the “private label” part of the credit card. Thus the servicing entity is the bank and the promoter is the merchant.”

Applicant has clarified the claimed invention to point out that the promoter: (i) is not said offering entity, (ii) does not provide financial cards for purchase of products or services provided by said promoter and (iii) does not co-brand a financial card with said offering entity, which features of the present claims distinguish Manchester and Manchester in view of Postel.

In particular, one non-limiting example of the present invention provides where the promoter is Bob's Garden Supply, a retail garden supply store or chain. Bob's Garden Supply acts as a promoter for Greenturf, a lawn and garden products manufacturer, where Greenturf is also an offering entity for a financial card co-branded with a financial credit card entity, as presented on pages 6-7 of the present application.

An example of mentions/advertisements is as follows:

"THESE GARDENING AND PLANTING REMINDERS ARE PROVIDED COURTESY OF BOB'S GARDEN SUPPLY, (000) 555-8888; AND GREENTURF INC, MAKERS OF WEED-NO-MORE AND GROW-GRASS-GROW."

Such a mention could be very valuable to a small company such as Bob's Garden Supply, which really needs all the customer loyalty aids that it can get, especially since it is trying to compete with giant entities such as Home Depot and Lowe's. The fact that the repeated impressions on numerous customer card transaction statements possibly won't cost Bob's Garden Supply anything should offer proper incentive to offer the card applications. Also, Greenturf gets direct-to-customer promotion for its products, and also gets the attention of Bob's Garden Supply, being that the Greenturf representative makes all of this possible. This could result in Greenturf having an advantage over the competition when it comes time for Bob's Garden Supply to order inventory stock. Having customers ask for Greenturf products by name, thanks to repeated direct-to-customer mentions/advertising, is certainly a helpful brand builder for Greenturf. Finally, the card entity should at least get Bob of Bob's Garden Supply, as well as some of Bob's employees, family and friends as new cardholders, because it is likely that Bob will enjoy seeing his company's name imprinted on a card transaction statement. Greenturf could promote its own co-branded card, or simply choose to avoid financial cards entirely and offer instead signup applications for home and garden related reminders, tips, or suggestions, or signup applications for advertising comprising coupons, special offers, catalogs, brochures and other promotional literature, or signup applications for special programs, or information dissemination (such as newsletters comprising recipes for those great vegetables that Greenturf helped grow), with or without home and garden related reminders, tips, or suggestions. Regardless, the applications would be coded to ensure that Bob's Garden Supply receives acknowledgement. There is a distinction that needs to be made at this time. A business such as Bob's Garden Supply is not like a franchisee

whose parent company sends out advertisement flyers with the franchisee's name and contact information attached based on a mailing list. A business such as Bob's Garden Supply may have several (if not numerous) vendors, each competing with each other for Bob's business. This method, using coded applications for anything that uses, or can be adapted to use, an application process, is intended to act as a tool that enables the vendor that supplies this method for the benefit of Bob's Garden Supply an advantage over other vendors. [Underlined emphasis added]

The above example illustrates that the promoter, Bob's Garden Supply, is not the offering entity for a financial card, does not provide financial cards for purchase of products or services provided by said promoter, nor does Bob's Garden Supply co-brand a financial card; rather, it is Greenturf that is "the card entity" for "its own co-branded card".

In contrast, Manchester provides a dual credit card system where the co-branded or private label merchant "issuing/sponsoring a private label credit card" is the promoter and a bank or financial institution is the offering entity; however, Manchester fails to teach or suggest the present claims that include where the promoter is the not offering entity, where the promoter does not provide financial cards for purchase of products or services provided by said promoter, or where the promoter does not co-brand a financial card with the offering entity.

Manchester (2003) citations:

The dual credit card system is in two parts: a) the creation of a dual credit card and b) the usage of a dual credit card. The creation begins with the receipt of an application by the merchant for a dual credit card. The issuing organization determines the interest rate and the credit line and issues the dual credit card to applicant. This is a combined private label and bankcard product with one interest rate and one credit line. That credit line will have a portion which is available only at the merchant's location. The issuer will determine that single credit line and the interest rate. [page 1, p. 9]

FIG. 1 illustrates the flow diagram of a customer's acquisition of a dual credit card **10**. A prospective credit card customer applies for the dual credit card **12** at a merchant issuing/sponsoring a private label credit card. The dual card will be a bankcard branded with the merchant's name and will appear like a bankcard such as (VISA®, MasterCard®, DISCOVER® or

other “general purpose” credit cards). The applicant provides personal, credit and employment information to the dual credit card issuer. Based upon the information supplied, the financial institution issuing the bankcard assigns a credit limit and/or an interest rate **14** and issues the credit card **16** to the applicant. A key element is that the dual credit card issuer is a cooperating financial institution that is issuing the dual credit card as a bankcard for non-merchant sales and a private label credit card for in-merchant sales. [page 2, p. 17]

Since the bankcard back office operation is processing both private-label purchases and bankcard purchases for the dual card user, cardholder statements may include merchant promotion material as well as normal operational customer service matters for both the merchant channel as well as the bankcard channel. The customer service functions may include normal customer service matters as well as collections and settlement issues. [page 1, p. 12]

The advantages of such a dual credit card system for the private label merchant is that the customers have one card that can be used in two ways. One way as a private label credit card that provides the private label credit card merchant with a means to provide marketing information to his customers and to ensure that a portion of the credit line is protected for in store purchases. The second way is the use of a recognized brand name card with a potential for lower credit card interchange than a standard bankcard or charge card. The promotional capabilities of a dual credit card are useful to both the merchant and the consumer. [page 2, p. 24]

Manchester at best teaches or suggests where the promoter is co-branded as a private label with the offering entity as both the merchant and the bank card institution offering the dual use card that can be used as either a traditional “general purpose” bankcard, or as a private label merchant credit card solely for purchases with the merchant, and where bank card institution can provide merchant/promoter advertising materials with the bank card statements. However, the present claims require that the promoter is not co-branded with or does not provide the financial card, which are both required features of Manchester.

Accordingly, Manchester thus fails to teach or suggest the present claims that *exclude* where the promoter is the offering entity, where the promoter is a financial card provider or where the promoter co-brands a financial card with the offering entity.

Thus, Manchester fails to teach or suggest the presently claimed method or system.

Postrel (2005) Citations:

The trading server may also be contacted in response to a button or hyperlink located on a web page accessible by the user from the airline reward server (FIG. 10, steps **1000** and **1002**). The process may continue to that described with respect to FIG. 6 for trading points into a reward exchange account (step **1004**). In a similar manner, hyperlinks or calling routines may allow a user to access a reservations system or merchant from the trading server. The link would direct the user to partner or associated air carriers where the points in a user exchange account on the trading server **20** may be used to acquire hotel accommodations, special offers, reduced fare or free flights. [page 8, p. 81]

A default account may be assigned so that when a user presents the smart card to a POS terminal, that default account is used unless another is specified. The default account to be used (e.g. CITIBANK VISA) may depend on the purchase involved, or upon the merchant with which the card is being used. For example, the card may be programmed to use the CITIBANK VISA application **1106** whenever the user presents the card at a supermarket, but the card may be programmed to switch to the AMERICAN EXPRESS application **1108** when the card is presented at a gas station. These default scenarios may be stored on the card in the user profile **1104**, which may be changed by a user as described further herein. Of course, these defaults may be overridden by the user if so desired at the point of sale. [page 3, p. 32]

A user profile may be stored in the smart card. The user profile would contain various information regarding the user, including but not limited to any or all of the following types of information: name, address, social security number, age, gender, income, demographics, psychographics, biometrics, names of various rewards accounts, passwords, prior purchase history including details of transactions executed, and preferences. Preferences may indicate which accounts on the smart card that the user would prefer to utilize in certain situations as mentioned above; e.g. use the VISA application at supermarkets but use the AMERICAN EXPRESS application at gasoline stations. Preferences may also indicate how the user would like to utilize reward accounts; e.g. he would prefer to pay for an item with 50% points and 50% credit, or he would prefer to pay for business expenses with credit only and personal expenses with points only, etc. These user preferences may be modified and accessed by the user when the smart card is inserted into an appropriate reader or terminal as known in the art. These user preferences may also be utilized by the various applications stored in and executed by the smart card as required. For example, when the user swipes the smart card to pay for gasoline, an the purchase

application may check the user profile to determine (1) which account to use unless otherwise specified, (2) how to pay for the item, e.g. with points and/or credit, etc. [page 6, p. 66]

Postrel thus discloses a user profiled credit/miles card that allows a user to define how purchases are designated to be used by alternative credit cards or to be made using miles and/or the corresponding credit card.

Manchester in combination with Postrel also does not suggest the presently claimed invention that provides a method and system for generating product or service account applications from a promoter on behalf of an offering entity in exchange for advertisements for the promoter, and where the present claims exclude where the promoter is the offering entity, where the promoter is a financial card provider, or where the promoter co-brands a financial card with the offering entity.

Accordingly, Manchester, alone or in combination with Postrel, fails to teach or suggest the presently claimed method or system.

Reconsideration and withdrawal of this rejection is requested.

Applicant respectfully requests entry of this amendment, and allowance of the present application.

Respectfully submitted,

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